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*Attorneys for The Travelers Home and
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LINDSAY BURCHBY, an individual, and
CASEY BURCHBY, an individual

Plaintiffs,

v.

TRAVELERS HOME AND MARINE
INSURANCE COMPANY; DOES I -XXX; and
ABC CORPORATIONS A-Z; inclusive,

Defendants.

CASE NO. 3:20-cv-00155-RCJ-CLB

**STIPULATED CONFIDENTIALITY
AGREEMENT AND PROTECTIVE
ORDER**

The parties to this action, Plaintiffs Lindsay Burchby and Casey Burchby (“Plaintiffs”), and Defendant The Travelers Home and Marine Insurance Company (“Travelers”), through their respective counsel, hereby stipulate to entry of this mutual protective order regarding the use and confidentiality of documents, testimony, information and material produced in this litigation.

1 To expedite the flow of discovery, facilitate the prompt resolution of disputes over
2 confidentiality, protect adequately material entitled to be kept confidential, and ensure that
3 protection is afforded only to material so entitled, it is, pursuant to the Court's authority under
4 (RULE), and with the consent of the parties to this litigation, ORDERED:

5 1. Confidential Information.

6 The parties to this litigation may designate as "CONFIDENTIAL" any document,
7 testimony, information or material disclosed through formal or informal discovery or otherwise in
8 the course of this litigation as hereinafter set forth in Paragraphs a, b, and c. Such designation shall
9 subject the information produced or provided under said designation to the provisions of this
10 Confidentiality Agreement. All or any portion of any documents, transcripts, writings or recordings
11 of any sort which substantially quote or paraphrase information regarding the Confidential
12 documents, testimony, information or material shall also be deemed Confidential and subject to the
13 terms and condition of this Protective Order. The parties shall act in good faith and on a reasonable
14 basis when designating material "CONFIDENTIAL."

15 (a) Any writing produced by any party or person in this litigation may be
16 designated as "CONFIDENTIAL" by any of the parties to this litigation by stamping
17 the word "CONFIDENTIAL" on the face of the writing. Alternatively, a party may
18 designate any writing as "CONFIDENTIAL" by identifying such document(s) by
19 bates number and designating it/them as "CONFIDENTIAL" in a cover letter
20 addressed to the opposing party(s)' counsel and accompanying the production of
21 such document(s).

22 (b) Any party to this litigation may designate deposition testimony or any
23 portion of deposition testimony as "CONFIDENTIAL" by advising the reporter and
24 counsel of such designation during the course of the deposition or at any time
25 thereafter. Portions of any deposition designated "CONFIDENTIAL" are to be filed
26 with the Court under seal, bearing substantially the following designation "Portions
27 of this deposition were taken subject to a Confidentiality Agreement. These portions
28 shall remain sealed until further agreement of the parties." Whenever any writing

designated as “CONFIDENTIAL” is identified as an exhibit in connection with testimony given in this case, it shall be so marked and separately filed under seal with the Court.

(c) Any party to this litigation may designate specific responses to information requests, including request for production responses and interrogatory answers, confidential by labeling the specific response “CONFIDENTIAL.”

2. Filing Under Seal.

Unless otherwise permitted by statute, rule or prior Court order, papers filed with the Court under seal shall be accompanied by a contemporaneous motion for leave to file those documents under seal, and shall be filed consistent with the Court’s electronic filing procedures in accordance with Local Rule IA 10-5. Notwithstanding any agreement among the parties, the party seeking to file a paper under seal bears the applicable burden as set forth in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006); See also, *Center for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016).

3. Access to Confidential Information.

Except upon prior written consent of the party asserting “CONFIDENTIAL” treatment or upon further order of a court of a competent jurisdiction, documents, testimony, information or material designed as “CONFIDENTIAL” shall be held in strict confidence and shall be used solely for the purposes of prosecution or defense of this litigation. Access to “CONFIDENTIAL” documents, testimony, information or material shall be limited to:

- (a) the Court, including any Court personnel assisting the Court, stenographers or other persons involved in taking or transcribing court or deposition testimony in this action, and members of the jury;
- (b) Plaintiffs, Defendants and their counsel of record and paralegal, clerical and secretarial employees of counsel of record;
- (c) the officers, directors or employees of a party participating in the prosecution, defense, settlement or other disposition of this action;
- (d) mediators, consultants, experts or litigation support services, including

outside copying services, retained by a party for the purpose of assisting that party in this action provided such persons agree in writing to abide and be bound by the terms of this Order in the form attached hereto as Exhibit A;

(e) potential witnesses provide such persons agree in writing to abide and be bound by the terms of this Order in the form attached hereto as Exhibit A;

(f) any person who is an author, addressee, or recipient of, or who previously had access to, the Confidential Information;

(g) deposition witnesses who agree in writing to abide by and be bound by the terms of this Order in the form attached hereto as Exhibit A;

(h) any other person as to whom the party that designated the document or information as Confidential has consented to disclosure in advance; and

(i) any other person designated by the Court.

4. Inadvertent or Late Disclosure.

If any party inadvertently produces or initially discloses any Confidential Information without marking it with the appropriate legend, that party may give notice to the receiving party that the information should be treated in accordance with the terms of this Order, and shall forward appropriately stamped copies of the items in question. Within five (5) days of the receipt of substitute copies, and upon request, the receiving party shall return the previously unmarked items and all copies thereof. The inadvertent disclosure shall not be deemed a waiver of confidentiality.

5. Copy and Storage of Confidential Information and Material.

No party shall, for itself or for any person or persons acting on its behalf, make more copies of any "CONFIDENTIAL" information or material than are reasonably necessary to conduct this litigation. Except as otherwise provided for in this Confidentiality Agreement, all "CONFIDENTIAL" information and material shall remain in possession of counsel for the respective parties or the parties themselves and be stored in a secure place.

6. Challenges to Confidential Designations.

If any party to this litigation objects to the designation of any document, testimony, information or material as "CONFIDENTIAL," the party may, by noticed motion, apply to the

1 Court for a ruling that the document, testimony, information or material shall not be so treated. The
2 burden shall remain with the party seeking confidentiality to justify such designation. Unless and
3 until the Court enters an order to the contrary, the documents, testimony, information or material
4 shall be given the “CONFIDENTIAL” treatment initially assigned to it and as provided for in this
5 Confidentiality Agreement.

6 7. Use of Confidential Information and Material.

7 Should any party hereto seek to utilize any “CONFIDENTIAL” document, testimony,
8 information or material at trial or a hearing in this matter, that party shall meet with counsel for the
9 other parties in an effort to agree upon a procedure to insure the confidentiality of such document,
10 testimony, information or material. In the event counsel are unable to reach agreement, the matter
11 will be submitted to the Court.

12 8. Procedures Upon Termination of Action.

13 Within thirty (30) business days following any final settlement or the running of any
14 applicable time to appeal the final order entered in this litigation, all parties shall either (i) return to
15 the person who produced such materials all copies of all Confidential information obtained through
16 discovery in this action or (ii) certify to that person that all such materials have been destroyed,
17 except that counsel for each party may retain in its files one copy of each pleading, brief or
18 document filed with the Court, and deposition and trial transcripts and exhibits thereto, and
19 correspondence, subject to the provisions of this Order. Copies of “CONFIDENTIAL” documents
20 that have been filed with the Court may be returned to the filing party by the Clerk of the Court, or
21 destroyed.

22 9. Efforts by Non-Parties to Obtain Confidential Information

23 If any Party has obtained Confidential Information under the terms of this Order and
24 receives a subpoena or other compulsory process commanding the production of such Confidential
25 Information, such Party shall promptly notify the producing party or non-party. The subpoenaed
26 party shall not produce any Confidential Information in response to the subpoena without the prior
27 written consent of the producing party or non-party unless in response to an order of a court of
28 competent jurisdiction. The parties will not object to the producing party or non-party having a

reasonable opportunity to appear in the litigation or process commanding disclosure of such Confidential Information for the sole purpose of seeking to prevent or restrict disclosure thereof.

10. Effect of Order.

This Order shall not affect the right of any party or non-party to oppose production of Discovery Materials on any ground permitted by the Federal Rules of Civil Procedure, including any applicable privilege. Moreover, this Order shall not affect the scope of discovery by any party that is not otherwise proper under the Federal Rules of Civil Procedure.

11. Application to Court.

This Order is without prejudice to the right of any interested party to apply to the court for an order permitting the disclosure of any Confidential information or to apply for an order modifying or limiting this Stipulation and Protective Order in any respect.

12. Effect of Dismissal

This Court will only retain jurisdiction of the effect of the order while the case is pending and its jurisdiction will cease upon dismissal of this action.

Dated: August 21, 2020

Dated: August 21, 2020

LEVERTY & ASSOCIATES LAW, CHTD.

FORAN GLENNON PALANDECH PONZI
& RUDLOFF PC

By: /s/ William Ginn

By /s/ Dylan Todd

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*Attorneys for Defendant The Travelers Home
and Marine Insurance Company*


*Attorneys for Plaintiffs Lindsay Burchby
and Casey Burchby*

CASE NUMBER: 3:20-cv-00155-RCJ-CLB

ORDER

IT IS SO ORDERED:

DATED this 24th day of August, 2020.


UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER** was served by the method indicated:

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).
- ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.
- ☒ **BY ELECTRONIC SERVICE:** submitted to the above-entitled Court for electronic service upon the Court's Registered Service List for the above-referenced case.
- ☐ **BY EMAIL:** by emailing a PDF of the document listed above to the email addresses of the individual(s) listed below.

Dated: August 21, 2020

/s/ Rita Tuttle
An Employee of Foran Glennon

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EXHIBIT A

CONSENT TO PROTECTIVE ORDER

1. I, _____, have read the foregoing Stipulated Protective Order dated June ____, 2020 (the “Protective Order”), and agree to be bound by its terms with respect to any documents, material or information designated or marked “Confidential” that are furnished to me as set forth in the Protective Order.

2. I further agree (i) not to disclose to anyone any documents, material or information marked “Confidential” other than as set forth in the Protective order; and (ii) not to make any copies of any documents, materials or information marked “Confidential” furnished to me except for use in accordance with the Protective Order; and (iii) not to use any documents or information produced or provided to me in connection with this litigation for any purposes other than those prosecuting and/or defending this action as set forth in paragraph 8 of the Protective Order.

3. I hereby consent to the jurisdiction of the United State District Court, District of Nevada, with regard to any proceedings to enforce the terms of the Protective Order.

Signature

Date